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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,886	03/30/2004	Jay Scott TUCKER	000100-203	2885
29306	7590	07/28/2005	EXAMINER	
MARSTELLER & ASSOCIATES, P. C.			ROY, SIKHA	
P. O. BOX 803302			ART UNIT	
DALLAS, TX 75380-3302			PAPER NUMBER	
			2879	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/708,886

Applicant(s)

TUCKER, JAY SCOTT

Examiner

Sikha Roy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

The Amendment, filed on May 28, 2005 has been entered and is acknowledged by the Examiner.

New claims 7 and 8 have been entered.

### ***Specification***

The disclosure is objected to because of the following informalities:

In section [0042] lines 5 and 8 'thickness 58' should be replaced by --thickness 56--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,760,307 to Howorth.

Regarding claim 4 Howorth discloses (Figs. 3A-3C column 4 lines 34-64, column 6 lines 29-61) faceplate for an image intensifier tube with anti-veiling glare window having opposing upper and lower surfaces, comprising a blank of glass with desired glass composition having shape conforming to the configuration of the faceplate, the

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metal oxide in the glass being reduced in an atmosphere of hydrogen and thus forming dark layer appearance (blackened) and absorbing radiation. Howorth discloses the entire surface of the window is subjected to reducing atmosphere creating radiation-absorbent color center layer over the whole surface and then the layer is selectively removed from the inner and outer major faces to obtain the window, the input and output faces of the windows were ground in order to remove the color center layer on these faces. Howorth discloses in Fig. 3C the processed upper surface 30 of the glass blank having a blackened ring about the light transmissive area and the bottom surface having desired aperture for passing light.

The Examiner notes that the claim limitation that "the light transmissive portion of the processed upper surface being formed by removal of a blackened step portion extending from the upper surface " is drawn to a process of manufacturing which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 5 and 6 Howorth discloses in Fig. 3C the upper and lower surfaces 30, 31 of the window are essentially parallel and flat.

Regarding claim 7 Howorth discloses (Figs. 1 and 4) the processed upper surface is formed on a cylindrical segment.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,023,511 to Phillips, and further in view of U.S. Patent 5,078,773 to Thomas.

Regarding claim 4 Phillips discloses (Figs. 1, 2, column 2 lines 35-60) an image intensifier tube 22 having a faceplate 28 comprising blank optical material of desired glass having shape conforming substantially to the configuration of the face plate with opposing upper and bottom surfaces.

Phillips is silent about the blank being blackened and processed and upper surface having blackened ring about the light transmissive portion and the bottom surface having substantially all blackening removed with desired aperture.

Thomas in same field of endeavor discloses (Figs. 3, 4a-4d column 3 lines 61- through column 4 line 2, column 4 lines 18-50, column 5 lines 19-28) optical glass blank 40 is blackened by reducing in an atmosphere of hydrogen and then blank is processed to form the light receiving and transmitting surfaces. Thomas discloses the upper surface is processed having blackened ring 26 about the light transmissive portion and the bottom surface is processed creating aperture for passing light. Thomas further discloses this blackened area surrounding the upper surface absorbs substantially all

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the stray light caused by reflection from the glass surface and thus reduces veiling glare.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to apply blackening and processing of the glass blank so that the upper surface has blackened ring about the light transmissive portion and the bottom surface has aperture for passing light as taught by Thomas to the faceplate of the image intensifier tube of Phillips for absorbing substantially all the stray light caused by reflection from the glass surface and thus reducing veiling glare.

The Examiner notes that the claim limitation that "the light transmissive portion of the processed upper surface being formed by removal of a blackened step portion extending from the upper surface " is drawn to a process of manufacturing which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 5 and 6 Phillips discloses the upper and lower surfaces of the faceplate substantially parallel and flat.

Regarding claim 7 Phillips and Thomas disclose the processed upper surface is formed on a cylindrical segment.

***Allowable Subject Matter***

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 8 the prior art of record neither teaches nor suggests the faceplate comprising a blackened blank with a light transmissive portion of the processed upper surface formed by removal of a step portion which has a diameter less than that of the cylindrical segment of the blank. The examiner notes here that the intermediate product of the step portion with diameter less than that of the cylindrical blank has substantial and credible utility in making the final product of the blackened ring about the light transmissive area of the blank.

***Response to Arguments***

Applicant's arguments filed May 28, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Howorth does not teach light transmissive portion of the processed upper surface having a blackened ring around, the examiner respectfully disagrees. Howorth discloses (Fig.3C) the blackened ring formed around the light transmissive surface 30 which the applicant agrees (see Remarks page 5 lines 1-3). It is noted that the prior art of Howorth and Thomas encompass the problem of solving reducing veiling glare in an image intensifier tube. The applicant alleges that no step portion is removed to expose a transmissive window

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portion. The examiner respectfully submits that this refers to a process of forming the product and has not been given patentable weight in view of the fact that the final product of blackened blank as disclosed by the prior art has the same structural limitations as those claimed. Furthermore in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies i.e., the annular blackened ring in the same plane of the light transmissive portion and small steps formed in the blackened blank reducing internal reflections are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,045,510 to Kohli et al. discloses process of preparing a surface darkened glass.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sikha Roy whose telephone number is (571) 272-2463. The examiner can normally be reached on Monday-Friday 8:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar D. Patel can be reached on (571) 272-2457. The fax phone number for the organization is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.R.

Sikha Roy  
Patent Examiner  
Art Unit 2879

Karabi Guharay

**KARABI GUHARAY  
PRIMARY EXAMINER**